Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Telecommunications Relay Services and	)	
Speech-to-Speech Services for	)	CG Docket No. 03-123
Individuals with Hearing and Speech Disabilities	)	
	)	
Access to Emergency Services	)	

REPLY COMMENTS OF THE NEW JERSEY DIVISION OF THE RATEPAYER ADVOCATE

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On the Comments:

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Date: March 8, 2006

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I. INTRODUCTION

The New Jersey Division of the Ratepayer Advocate ("Ratepayer Advocate") hereby responds to the initial comments submitted in response to the Notice of Proposed Rulemaking ("NPRM") issued by the Federal Communications Commission ("FCC" or "Commission").[1]

As the Ratepayer Advocate recognized in its initial comments, the Commission has waived the TRS emergency call handling mandatory minimum standards for video relay service ("VRS") until January 1, 2007, and for IP Relay until January 1, 2008.[2] Although the Ratepayer Advocate recognizes that presently, in the absence of technical solutions, such delay is inevitable, until the industry meets these minimum standards, the health, safety, and welfare of those consumers who rely

[1]/ *Federal Register*, Vol. 71, No. 21, February 1, 2006. *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Access to Emergency Services,* CG Docket No. 03-123 (rel. November 30, 2005) ("NPRM").

[2]/ Ratepayer Advocate, at 4.

on IP Relay and VRS are at risk that their calls to emergency 911 services will not be handled accurately and promptly. Furthermore, these alternative forms of relay, which improve significantly the quality of communication for those consumers who are deaf, hard-of-hearing, and speech impaired, are becoming increasingly popular.[3] Therefore, the number of consumers who are at risk of receiving a delayed or inaccurate connection to the nation's 911 system is increasing, which, in turn, is raising the stakes of the situation. For these reasons, the Ratepayer Advocate commends the Commission for its efforts to identify and to implement transitional and long-term measures that will lead to accurate and timely access to emergency services for all consumers. The Commission's overarching question in this proceeding, which is to determine how VRS and IP Relay providers may determine the appropriate PSAP to contact when they receive an emergency call, is of utmost importance.[4]

Various parties submitted comments including those that represent the deaf, hard-of-hearing, and speech impaired as well as those that provide IP Relay and VRS. The Ratepayer Advocate urges the Commission to consider the diverse ideas and concerns that the initial parties raise, and to render a decision and further guidance to the industry in a timely manner.

Among the key issues that initial comments address are registration; appropriate notification to consumers about 911 limitations; priority access to 911 (queuing); presence of multiple providers;

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[3]/ As one organization states, "[a]lthough no hard data exist, it is widely observed by people familiar with the signing deaf community that with every passing year, fewer and fewer people who are culturally deaf are subscribing to landline telephone service and thus fewer and fewer have access to 9-1-1." Rehabilitation Engineering Research Center on Telecommunications Access ("RERC-TA"), at 2. The RERC-TA indicates that it "is a joint project of Gallaudet University and the Trace Center of the University of Wisconsin, Madison that is funded by the National Institute on Disability and Rehabilitation Research of the U.S. Department of Education," and further explains that the "primary mission of the RERC-TA is to find ways to make standard systems directly usable by people with all types and degrees of disability, and to work with industry and government to put access strategies into place." RERC-TA, at 1.

[4]/ *NPRM*, at para. 17.

jurisdictional separation of costs; and the timing of solutions.

The Commission should direct the implementation of an optional user location registration system.

Several representatives of the user community and industry members recommend that registration be optional rather than required, and provide compelling reasons for opposing mandatory registration. The National Association of the Deaf ("NAD") recommends that registration should be optional, explaining, among other things, that "a registration system will be onerous and an excessive burden on deaf and hard of hearing users." NAD explains further that "[d]eaf and hard of hearing people visit businesses, stay in hotels, visit relatives," and that "to have to register at each location would be cumbersome, time consuming, and extremely burdensome."[5] NAD opposes requiring callers to affirmatively acknowledge they are at a specific location each time they make a call because it would be burdensome.[6]

Verizon opposes a registration requirement, contending that it would infringe on users' privacy and impose significant costs on providers "while doing almost nothing to improve the emergency calling capability provided by these services today."[7] Presently, Verizon's IP Relay website instructs callers to use their TTY to call 911. Verizon indicates that if a caller nonetheless requests emergency service from Verizon's IP Relay or VRS operator, the operator will ask the caller for information about the caller's location and route the call to the appropriate PSAP, using a

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[5]/ NAD, at 2-3. The National Association of the Deaf indicates that it is the oldest and largest consumer based national advocacy organization that is safeguarding the "accessibility of 28 million deaf and hard of hearing individuals in the United States of America" and that the "mission of the NAD is to promote, protect, and preserve the rights and quality of life of deaf and hard of hearing individuals here in the USA." NAD, at 1.

[6]/ *Id.*, at 5.

[7]/ Verizon, at 1.

national database of PSAP numbers.[8] Initial comments demonstrate that a significant factor differentiating VoIP services from VRS and IP Relay is that the former entails the assignment of North American Numbering Plan ("NANP") numbers to subscribers, which, in turn, enables databases to match a subscriber's number to her registered location, which can then be provided to the appropriate PSAP in the event of an emergency. Verizon explains why a system with registered locations is not feasible:

> VRS and IP Relay generally do not use NANP numbers. Instead, because they originate on the Internet, they have IP addresses. But IP addresses, which are used to route IP services to or from a particular end user's device (e.g., computer or IP phone), have no necessary relation to the physical location of the user. They are assigned at the point where the device connects to the Internet, which may or may not be in the same geographic location as the end user. Moreover, in many situations, service providers use "dynamic IP addressing" for residential users, which assigns an address each time the user connects to the Internet. Once the user ends his or her Internet session or turns off the computer, the IP address can be reassigned to another user. Depending on the provider's network architecture, the IP address could be assigned to a connection in another geographic location or even another state. There is currently no commercially feasible way for providers reliably to associate a particular user's IP address with that user's specific geographic location.[9]

Sprint identifies potential problems with the application of the Registered Location rules that are imposed on providers of interconnected VoIP services to providers of VRS and Internet Relay service:

> Unlike users of VoIP services, deaf or hard-of-hearing individuals need not subscribe to any particular provider in order to make a VRS or Internet Relay call. Rather, they can access any number of providers to make such calls. Providers of VRS and Internet Relay services are compensated for the costs they incur in providing such services by the Interstate TRS Fund and not by the users of the services. Accordingly, these providers do not have billing information or contracts with callers that could be

[8]/ *Id.*, at 2. Verizon further indicates that its IP Relay calling assistants handle approximately 60 emergency calls per month. *Id.*, at fn 3.

[9]/ *Id.*, at 3, footnotes omitted.

used to generate registered locations.[10]

Communication Services for the Deaf ("CSD") states the following regarding registration:

> CSD believes that a user location registration system, so long as it is optional for relay users, may assist in both the short and long term implementation of 911 services for VRS and Internet-based relay services. If a registration system is adopted, CSD believes that a centralized, neutral entity must be responsible for conducting registration and entering location data in a single, centralized database, to be shared by all VRS and Internet based relay providers. Moreover, the registration process should not be onerous to consumers. We caution, however, that registration alone will not solve the location determination problem for mobile calls. In the future, an assistive technology such as GPS could be used for this purpose.[11]

CSD also believes that registration may assist in both the short and long term implementation of 911 services for VRS and Internet-based relay.[12] CSD contends that consumers should not need to purchase any added equipment, but rather should be able to register either through the centralized entity, or through individual providers. CSD also opposes any requirement for users to subscribe to VoIP services for "dual" emergency calls, unless such subscription is costless to the user, "merely to obtain the ability to forward location and call-back information to a PSAP."[13] Hamilton Relay, Inc.

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[10]/ Sprint Nextel, at 6. *See,* also, Sorenson, at 15, supporting voluntary registration; Verizon, at 4, explaining that, unlike a VoIP provider, which bills a customer, and therefore needs to have that customer's address, Verizon does not bill its VRS or IP relay services customers and therefore has no need to learn its users' addresses. VRS and IP relay users can use them on a one-time basis. A registration system would require providers to establish a system for validating user information. Verizon, at 4. *See,* also, Communication Access Center for the Deaf and Hard of Hearing ("CACDHH"), at 5-6, stating that "the VRS and IP Relay users do not need to establish service with any provider before placing VRS and IP calls," and that "VRS and IP Relay users are not limited to using the services of one provider." CACDHH is a VRS Provider and "also provides a wide range of services and programs to the deaf community outside of relay services and has for the past 30 years." CACDHH, at 2.

[11]/ CSD, at v. CSD describes itself as "a private, non-profit organization that provides programs and services intended to increase communication, independence, productivity, and self-sufficiency for all individuals who are deaf and hard of hearing through education, counseling, training, and communication assistance. CSD also provides telecommunications relay services (TRS) in over thirty states as a subcontractor to Sprint or through state-contracted TRS operations call centers. In addition, CSD provides video relay services (VRS) as a subcontractor to Sprint throughout the entire United States and its territories." *Id.*, at 1-2.

[12]/ *Id.*, at 12.

[13]/ *Id.*, at 13-14.

("Hamilton"), an Internet relay and VRS provider, refers to pending legislation that covers some of the issues in this proceeding and recommends that the Commission await congressional guidance.[14]

The initial comments demonstrate persuasive reasons that the Commission should not impose a mandatory registration system at this time.

Initial comments also raise concerns about labeling equipment as a way to inform users of the 911 limitations of VRS and IP Relay. Sorenson Communications ("Sorenson") contends that labels will become outdated, and prefers web-based and promotional material.[15] Verizon indicates that it "would have no way of knowing to whom the labels should be sent" and further states that "users do not need to 'subscribe' to Verizon's services, and they do not provide addresses or other contact information to Verizon."[16] The lack of a direct connection between the VRS or IP Relay provider and the user creates a potential vacuum in customer education. At a minimum, web sites become essential areas for informing consumers about 911 limitations and alerting them to the technical drawbacks associated with a particular service and/or technology.

The Commission should heed NAD's position that a queue "by definition is a violation of functional equivalency" and take note of the industry's ability to give a priority to 911 calls.

NAD's position is that queues, by definition, violate the requirement of functional equivalency because hearing people do not have to wait in a queue to make their telephone calls. NAD urges the Commission to eliminate queues for VRS and IP Relay providers, and notes that NAD has received and continues to receive anecdotal evidence that VRS users are still experiencing

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[14]/ Hamilton, at 5.

[15]/ Sorenson, at 14.

[16]/ Verizon, at 7.

long waiting periods of up to 30 minutes for their calls to be put through.[17] CSD proposes, in lieu of specific processes for queues, the use of a dedicated 911 so that "users could have access to a separate IP address" on their video phone speed-dials.[18]

The initial comments demonstrate that it is feasible to make sure that calls to 911 get priority treatment.[19] Sorenson indicates that it is able to recognize those calls to 911 and move them to the head of the queue.[20] Although, presently this only works with calls from Sorenson videophones, Sorenson indicates that it is making changes so that it will give priority to all calls to 911, regardless of the technology used.[21]

The Ratepayer Advocate urges the Commission to direct all VRS and IP Relay providers to adopt technology that enables them to detect calls to 911 and to place them at the head of the queue. Also, the Ratepayer Advocate recommends that the Commission monitor waiting times to ensure that 911 queues do not occur.

The Commission should commit to resolving 911 issues expeditiously.

The Commission should set deadlines for interim and long term systems for ensuring that callers who rely on VRS and IP Relay obtain adequate access to 911 systems. During the transition to more comprehensive systems that are able to link users to geographic locations, and where such access may be limited, providers should adequately inform consumers about such limitations. NAD contends that the timeline for implementation of solutions should be the same timeline as required

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[17]/ NAD, at 6.

[18]/ CSD, at 15.

[19]/ Sorenson, at 7.

[20]/ *Id.*, at 5.

[21]/ *Id.*.

for VoIP.[22] NAD states that it understands that there are software programs available that have contact information of all PSAPs in the nation, which enable VoIP providers to connect callers with the appropriate PSAP. NAD further questions whether it would be possible for VRS and IP Relay providers to use this software for such calls.[23]

CSD states:

> As Internet relay and VRS grows in popularity, CSD agrees that a solution for swift and effective emergency call handling though these services must be adopted as quickly as possible. Deaf and hard of hearing individuals need the same assurance that they will have access to police, fire, and medical assistance over Internet-enabled relay services as do individuals who use voice over the Internet (VoIP) services. In working toward this objective, the FCC must ensure that emergency solutions are compatible and standardized across all VRS and Internet-based relay providers, to avoid confusion and delay for deaf and hard of hearing consumers.[24]

Specifically, CSD indicates that it believes that registration can be achieved within six months to one year but that it estimates five years will be needed for the configuration of end-point hardware, including GPS or other suitable technology that can determine a user's location away from his or her primary location.[25]

RERC-TA recommends fast-tracking the schedule for short-term and long-term solutions, and, furthermore, recommends that the Commission address these issues in an integrated manner.[26] Sorenson recommends that the Commission adopt a phased approach to the implementation of solutions. Phase One would entail priority access to 911; Phase Two would involve matching the user with the appropriate PSAP; and Phase Three would encompass the addition of location

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[22]/ NAD, at 7.

[23]/ *Id.*, at 2.

[24]/ CSD, at iv.

[25]/ *Id.,* at 15-16.

[26]/ RERC-TA, at 5.

provisioning.[27]

The Ratepayer Advocate reiterates its support for focused efforts to implement systems so that 911 calls to IP Relay and VRS providers are handled accurately and swiftly. The Ratepayer Advocate supports a phased approach whereby those solutions that can be implemented immediately, such as priority routing for 911 calls, be mandated by the Commission, to provide the maximum protection feasible for consumers during the transition to more permanent and comprehensive solutions. The Ratepayer Advocate urges the Commission also to seek more effective solutions, such as those where users will be matched automatically with the appropriate PSAP, and ultimately where users' locations can be discerned.

The Commission should ban blocking on VRS equipment.

As a result of its participation in this proceeding, the Ratepayer Advocate has become cognizant of the serious issue of VRS blocking (contractual or technical blocks on equipment or routers, which prevent some calls from being completed), and urges the Commission to ban such practices as soon as is readily practical, because, as the CSD states, such "exclusivity policies can pose extreme dangers and lead to tragedy in emergency situations."[28] To assist with the enforcement of such a ban, any VRS provider who continues to block calls should be deemed ineligible for TRS compensation. The CSD explains the dire consequences of such blocking for users in emergency situations:

> Specifically, when an emergency occurs, a consumer dialing into a provider that maintains exclusivity has no way of accessing an alternate provider if that provider is operating at full capacity; when this occurs, the consumer has no choice but to wait several minutes for a VRS interpreter to become available. As the emergency

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[27]/ Sorenson, at 2.

[28]/ CSD, at 4, footnote omitted.

> situation worsens and the consumer is forced to continue waiting, he or she is likely to become increasingly frightened, distressed and anxious, remaining completely powerless to summon assistance through other VRS providers whose web addresses remain blocked.[29]

The Ratepayer Advocate concurs with those that urge the FCC to ban practices that impose any form of block on VRS calls – whether on video equipment or Internet routers.[30] Sorenson recently announced that by no later than July 1, 2006, all users of its videophone will be able to call a hearing person using sign language through the interpreters of any other VRS provider.[31] Sorenson's announcement demonstrates that such a prohibition on life-threatening blocking is technically feasible.

The Commission should assess the need for VRS and IP Relay users to have a call-back number.

Initial comments raise the possible need for VRS and IP Relay users to have call-back numbers. CSD states:

> As hearing Americans switch their voice communications from PSTN to VoIP services, they are continuing to be assigned NANP numbers, which can be used to receive call-backs from 911 emergency authorities. Currently, there is no parallel numbering scheme for VRS (or Internet-relay) users. Otherwise stated, there is no consistent way for PSAPs to identify and access disconnected VRS users in a manner that is comparable to accessing individuals whose VoIP phones are linked to the NANP. Instead, each of the eight VRS providers use different end-user identifications systems, with different provider numbers or extensions. This forces VRS users to list multiple ways of receiving VRS calls if they want to receive return calls from hearing individuals. For emergency authorities, this complex and confusing arrangement can spell disaster.[32]

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[29]/ *Id.*.

[30]/ *Id.*, at iv. Similarly, the NAD "continues to state that blocking calls by some VRS providers (lack of interoperability) is awful and definitely life-threatening for emergency call handling." NAD, at 7

[31] "Sorenson Communications to Allow Users to Call Interpreters of Other Video Relay Services," released February 20, 2006, provided to the Commission with *ex parte* filing submitted February 23, 2006.

[32]/ CSD, at 9-10.

RERC-TA recommends that IP relay services be required to handle calls in either direction since call-backs are essential for achieving access to 911.[33] Hamilton contends that "a uniform numbering system for IP-based relay services is necessary in order to have a viable emergency call handling system for Internet Relay and VRS." Hamilton contends further that in "the absence of a uniform way to identify users, it is impossible for VRS/Internet Relay providers to tie a particular user to a particular location" and that, therefore, "any Commission decision on IP-based emergency call handling necessarily involves the prior implementation of a uniform numbering system."[34]

The Ratepayer Advocate urges the Commission to explore options further with the industry and users to provide a foundation for prompt, and accurate handling of emergency calls.

The Commission should not seek to address cost recovery in this proceeding.

Because the Commission has previously determined that Internet relay services are interstate, the costs of VRS and IP Relay service are appropriately assigned to the interstate jurisdiction. Citing prior Commission decisions, the Missouri Public Service Commission contends: "Previous Commission decisions make it clear that Internet relay services are an interstate service. It is not appropriate for the Commission to shift costs associated with interstate services to intrastate jurisdictions."[35] The Missouri Public Service Commission also raises various practical drawbacks to requiring intrastate funding of TRS and IP Relay services, including a concern that the allocation of these costs to a state fund may be significant and could deplete the state's fund.[36] CSD recommends

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[33]/ RERC-TA, at 5.

[34]/ Hamilton, at 2.

[35]/ Missouri PSC, at 3 (see discussion generally at 2-3).

[36]/ *Id.*, at 2-4.

that costs be covered through an interstate relay fund.[37] Sorenson opposes the resolution of jurisdictional costs in this proceeding.[38] Citing the practical infeasibility of identifying the jurisdictional nature of a call, which may originate from a Blackberry or Sidekick, Verizon opposes any effort to distinguish between intrastate and interstate VRS and IP relay calls.[39] Similarly, Hamilton "does not believe that emergency calls can be a rational mechanism for allocating TRS costs between interstate and intrastate jurisdictions, because the number of 911 calls is so low."[40]

The Ratepayer Advocate agrees that costs should be covered through an interstate relay fund. Should the Commission decide to consider this issue further, however, the Ratepayer Advocate concurs with Sorenson that the issue should not be addressed in this proceeding, but rather this proceeding's focus should be on the timely implementation of short-term and long-term solutions to protect the health and safety of deaf, hard-of-hearing, and speech-impaired persons.

Solutions should maximize the protection of consumers' privacy, regardless of the technology used.

NAD notes that in voice-activated calls, the business will often provide a statement to the effect that "Your call will be monitored for quality assurance," and questions whether such a requirement could be placed on VRS and IP Relay calls to ensure that users of either system are aware that their calls may be monitored.[41] The Ratepayer Advocate concurs with the views expressed that the Commission should limit collection of information in any registration process to that necessary to handle 911 calls. Furthermore, "VRS and Internet relay providers, and their third

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[37]/ CSD, at 17.

[38]/ Sorenson, at 16-17.

[39]/ Verizon, at 7-9

[40]/ Hamilton, at 3.

[41]/ NAD, at 4.

party vendors, should be required to implement commercially reasonable precautions to insure the privacy of the information, while making it available to appropriate CAs and PSAPs in realtime."[42]

The Commission should coordinate with other relevant agencies and also continue to coordinate with stakeholders.

Initial comments also stress the importance of coordinating with stakeholders and with other agencies that have relevant expertise. RERC-TA proposes convening a stakeholder summit to focus resources on coordination and communication.[43] RERC-TA also recommends that the Commission coordinate efforts with the U.S. Department of Justice and the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities (ICC).[44] Sorenson recommends that the Commission consult with leading 911 providers before imposing any technical requirements.[45] The Ratepayer Advocate supports these various suggestions that the Commission seek the expertise of other relevant government agencies and industry before imposing specific technical requirements. Any collaborative approach, however, should include representatives of users so that the industry develops solutions that are responsive to the requirements of the deaf, hard-of-hearing, and speech-impaired community.

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[42]/ CSD, at 14-15.

[43]/ RERC-TA, at 7.

[44]/ *Id.*, at 7. Observing that the engineering staff of the Office of Engineering and Technology ("OET") has been involved as technical advisor in many proceedings and advisory committees around Homeland Security and 911 access, the RERC-TA recommends that the OET be involved in the review of short-term and long-term solutions. *Id.*, at 6-7.

[45]/ Sorenson, at 12.

Initial comments demonstrate that not all VoIP requirements necessarily should apply to IP Relay and VRS.

Sorenson recommends that the Commission not seek to import solutions from other services that may not apply to IP and VRS.[46] Sorenson contends that the Commission should not assume identical solutions are appropriate for VoIP, IP Relay, and VRS, simply because they all use the Internet.[47] Sorenson recommends that the Commission not dictate particular technical solutions, but rather allow the industry the flexibility to innovate and identify solutions.[48] Such an approach is reasonable only if the Commission provides a well-specified time frame within which technical solutions need to be identified and implemented. Furthermore, as CSD states:

> The FCC needs to ensure that solutions are developed that are compatible and standardized across all VRS and Internet-based relay providers, to avoid confusion and delay for users of these services. Traditional relay users can now call any relay center and request to be connected to the most appropriate 911 public safety answering point (PSAP); Internet-based relay users need the same assurance.[49]

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[46]/ *Id.*, at 4-5.

[47]/ *Id.*, at 10.

[48]/ *Id.*, at 7.

[49]/ CSD, at 3.

II. CONCLUSION

Clear and highly visible instructions on web sites, well-trained CAs, and technical solutions that ensure that 911 calls are not lost in a queue are among the immediate steps that the Commission should direct the industry to continue to practice and to implement, if not yet implemented. Furthermore, the comments in this proceeding convincingly demonstrate the importance of banning blocking on VRS routers and equipment. Longer term technical solutions clearly depend on collaborative efforts among the users, VRS and IP relay providers, and 911 industry providers. As users move away from TTY devices and increasingly rely on VRS and IP Relay, it is of utmost importance that reliable access to 911 emergency service is obtained and sustained.

Respectfully submitted,
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